

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DEBORAH M. LUMBARD,

Plaintiff,

V.

C.A. No. 05-CV-11124-PBS

THE PRUDENTIAL INSURANCE
COMPANY OF AMERICA and
STATE STREET BANK AND TRUST
COMPANY,

Defendants.

JOINT STATEMENT

Pursuant to Local Rule 16.1(D), Deborah M. Lumbard, The Prudential Insurance Company of America and State Street Bank and Trust Company submit this Joint Statement.

I. Proposed Pretrial Schedule

A. Discovery Plan

The parties do not believe that any discovery is necessary as this is an action for recovery of long-term disability (“LTD”) benefits under ERISA and the only admissible evidence is the administrative record. The parties expect that they will be able to agree on the contents of the administrative record by September 15, 2005. In the event of any disagreement as to the contents, that matter will have to be resolved by the Court.

II. Proposed Motion Schedule

The parties believe that this action is appropriate for summary judgment or can be treated as a case stated. It may, however, be more efficient to bifurcate the summary judgment/case treated motions. The first motion would address the standard of review to

be employed by the Court in evaluating Prudential's termination of Ms. Lumbard's LTD benefits and the contents of the administrative record. The second motion would then focus on the merits of Prudential's decision in light of the administrative record and the standard of review employed by the Court.

In the event that the Court agrees to such bifurcation, then the parties propose that the motions concerning the standard of review/contents of the administrative record be filed by October 14, 2005, oppositions to such motions be filed by October 31, 2005 and any reply memoranda filed by November 14, 2005.

Any dispositive motion must then be filed within 45 days after the Court's ruling, opposition memoranda must be filed within 20 days thereafter and reply memoranda within 14 days.

On the other hand, if the Court does not bifurcate the motions, dispositive motions shall be filed by October 31, 2005, oppositions filed by November 18, 2005 and replies filed by December 9, 2005.

Because the administrative record is relatively voluminous and for other reasons, the parties request that the 20-page limit on initial memoranda be waived and that the page limit be extended to 40 pages.

DEBORAH M. LUMBARD

By her attorneys,

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Dated: August ____ , 2005